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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/603,515	06/23/2000	Andrew P. Foray	P/3879-12	9913

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EXAMINER

KARMIS, STEFANOS

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/603,515

Applicant(s)

FORAY ET AL.

Examiner

Stefano Karmis

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MLW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date 21.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This communication is in response to Applicant's response filed on 04 May 2004.

Status of Claims

2. Claims 1-24 have been left as previously presented. Therefore claims 1-24 are under prosecution in this application.

Summary of this Office Action

3. Applicant's response filed on 04 May 2004 has been fully considered but is not deemed to be persuasive. Therefore the rejection, based on Togher et al. (hereinafter Togher) U.S. Patent 6,014,627, stands as cited in the previous office action, paper number 19, and Applicant's request for allowance is respectfully denied at this time.

Response to Arguments

4. Applicant's remarks with respect to the 35 U.S.C. 112, second paragraph rejecting as being indefinite because of the use of the term "and/or" is deemed to be persuasive. Therefore

the 35 U.S.C. 112 rejection as stated in the previous office action is withdrawn from consideration.

5. Regarding independent claims 1 and 12, the Applicant discloses a trading system with a plurality of matching engines where, at any given time, only one of said matching engines is actively performing price matching and deal execution. Further, in independent claims 23 and 24 Applicant discloses a trading system in with a plurality of matching engines where, at any given time, more than one, but not all of the said matching engines is active performing price matching and deal execution. These claims are contradictory, by stating first that only one matching engine may be active and later by allowing a plurality of matching engines to be active. Furthermore, any remaining matching engines are described to be "passive," which actually involves the matching engine performing functions such as passing price information input to other arbitrators as described in page 7 of the Applicant's specification.

Togher clearly discloses that arbitrators perform the matching function and other aspects of the deal matching process. Togher further teaches that simultaneously other arbitrators may be processing deals, thus allowing the possibility for more than one arbitrator to be active at a point in time. Continuing, when an arbitrator is not actively matching, the arbitrator is utilizing the communication link between other arbitrators to broadcast price quotes to other Trading Regions (column 5, lines 31-50), thus acting in the same manner as a passively described matching engine by the Applicant.

Continuing, the Applicant teaches determining which arbitrator is active is based for the various Trading Regions. The specification describes, providing one arbitrator in London, one in

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New York and one in Tokyo and switching between arbitrators based on market opening or volume, and switching is to occur due to the vast time differences of the different city locations. Similarly, Togher also teaches arbitrators assigned to various Trading Regions to handle deal matching and other aspects of the process. Togher asserts that the permanent communication links facilitates deals with a Taker in a remote Trading Region who does not normally have any direct link to the Maker's arbitrator, and therefore allows arbitrators to match with Takers outside their Trading Region (column 5, lines 31-50). It would be obvious to one of ordinary skill in the art that the active arbitrators would be located in geographic locations that are at regular business hours. During non-business hours, these arbitrators would be passive based on inactivity during those hours. Therefore, due to arbitrators in different trading regions around the world, such as New York and Tokyo as mentioned by the Applicant, it would be obvious to one of ordinary skill in the art that the arbitrators in these trading regions, would not be simultaneously active because one of these locations will always be at non-business hours while the other is in regular business hours.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (703) 305-8130. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted
Stefano Karmis
20 August 2004



HANI M. KAZIMI
PRIMARY EXAMINER